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EXAMINER

BLOUNT, STEVEN

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Elastomer
pipe
rotate
wind

Office Action Summary

Application No.

09/676,967

Applicant(s)

Corbett, JR

Examiner

Blouet

Group Art Unit

2661

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/28/02
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 4-5, 7-11 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 4-5, 7-11 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).
- *Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

A. The examiner notes a minor typographical error in the clean version of claim 4, line 14, the word "mandre" missing the appropriate letter l.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. 4 - 5 and 7 - 10 are rejected under 35 U.S.C. 112 second paragraph for failing to particularly point out and distinctly claim the subject matter which the applicant regards as their invention. In claims 4 and 5, last paragraph, it is stated

"whereby a pre-stressed and pre-located integral gasket is provided withing the socket end of a polyethylene pipe which is securely retained within a receiving groove which is integrally formed about the gasket during the manufacturing step".

However, the step of providing an integral gasket within the socket end of a polyethylene pipe is never recited in the preceding portion of the claim. Further, a retaining groove is never mentioned, nor is the act of retaining a pipe in the said groove.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 4329193 to Sznopek et al in view of U.S. patent 5,411,619 to Sundqvist et al and U.S. patent 5,988,695 to Corbett Jr.

With regard to claim 1, Sznopek et al teach the invention, including installing an elastomeric gasket (col 5, lines 40+) on a mandrel (col 6, lines 20+), and extruding a composite material including a thermosetting plastic. See col 5, lines 27+. Sznopek et al do not, however, teach extruding a strip of *thermoplastic* material, said thermoplastic material made of *polyethylene*. Extruding a strip of thermoplastic material about a mandrel is taught in Sundqvist et al. See col 1, lines 14+. Having a “polyethylene” material cover a gasket is taught in col 4, line 15 of Corbett Jr. It would have been obvious to one of ordinary skill in the art at the time of the invention to have extruded a strip of thermoplastic material consisting of polyethylene about the mandrel of Sznopek et al, in light of the teachings of Sundqvist and Corbett Jr., in order to provide a method for more easily coating the gasket with a cheaper and simpler material (pure resin) than one that requires the use of fiberglass, and one that has the appropriate thermal properties.

With regard to claim 2, note that Sundqvist et al teach joining thermoplastic pipes (col 1, lines 1+); further, Official Notice is taken that it is well known in the art to electroweld thermoplastic pipes together.

With regard to claim 3, while Sundqvist et al teach using a thermoplastic material, they do not explicitly teach extruding polyethylene. The use of Polyethylene as the extruding material

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is a matter of design choice wherein no stated problem is solved or any new or unusual result achieved by using polyethylene as opposed to some other polymeric material.

With regard to claim 4, note the rejection of claim 1 above, and further note the rotation in figure 1 of Sundqvist, the locating area 28 in figure 2 of Sznopek et al, and cooling spray in col 2 lines 2+ of Sundqvist et al.

With regard to claim 5, note that it is common in operations such as these to terminate an extruding step while continuing to rotate its associated mandrel, and note the knife 9 in Sundqvist.

With regard to claim 6, note the rejection above of claim 3.

With regard to claim 7, see column 1, lines 57+ of Sundqvist.

With regard to claim 8, see member 11 of Sundqvist.

With regard to claim 9, again see member 9 of Sundqvist.

With regard to claim 10, see col 3 lines 54+ of Sundqvist et al.

With regard to claim 11, note the rejection of claim 2 above.

Response to Arguments

5. Many of Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Those which are not deemed moot by the new grounds will be discussed in the order in which they were presented.

Applicant states that "Further, in Sznopek, the thermoplastic material is provided in the form of an elastomeric sleeve 2 which is surrounded by a fiber glass plastic body 10 (pages 6 -

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7). However, it is stated in col 5 lines 13+ of Sznopek that it is a "fiber glass *reinforced* plastic body 10" (emphasis added). The fact that the fiberglass reinforces the plastic would suggest that the plastic still retains many, if not most, of its thermoplastic properties.

The examiner believes that it is important to note that on page 12, second paragraph of the applicants specification, it is stated that "a number of thermoplastic materials may have the desired expansion characteristics for use in the method of the invention. The generally preferred materials are polyolefin type materials, such as polyethylene, polyvinylchloride, polyvinylchloride acetate, polystyrene, and the like. The most preferred material is commercially available polyethylene". Therefore, applicants use of polyethylene is merely a preferred choice of material (not critical), and the "thermoplastic profile" material taught in Sundqvist et al (and possibly even the polyester material in Sznopek et al standing alone) would be sufficient to render the applicants invention obvious. However, the examiner has now provided the Corbett Jr. reference to be sure that there is no question remaining as to the satisfaction of the requirements of 35 U.S.C. 103(a).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

7. Official documents related to the instant application may be submitted to the Technology Center 3700 mail center by facsimile at (703) 872-9302 (responses before final) and 703-872-9303 (responses after final). Should Applicant desire to submit a DRAFT response to the Examiner by facsimile transmission, then Applicant should contact the Examiner at the number below for instructions concerning the transmission of DRAFT documents. Applicant is reminded to clearly mark any facsimile transmission as "DRAFT" if it is not to be considered as an official response. Examiner Blount may be contacted at the Patent Office between the hours of 9:00 am to 5:30 P.M. Monday through Friday.

8. Any inquiry concerning this communication should be directed to Examiner Steven Blount at telephone number (703) 305-0319.

SB


12/16/02



DOUGLAS OLMS
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TECHNOLOGY CENTER 2600